
NOTICE OF RULE MAKING
COOK ISLANDS CIVIL AVIATION RULE PART 12
Accidents, Incidents, and Statistics

I, Hon Henry Puna Minister of Civil Aviation of the Cook Islands, make the following Rule:

Cook Island Civil Aviation Rule (CICAR): Part 12 Accidents Incidents and Statistics

Content of Rule Incorporated by Reference

In accordance with section 39 of the Civil Aviation Act 2002 this Rule Part incorporates by way of reference, the Rules contained in **New Zealand Civil Aviation Rule Part 12** in force as at **18th April 2018** as modified hereunder and shall be read subject to the following Interpretation and Modification Statement.

Objective of the Rule

The objective of the Rule is to ensure that the Secretary of Transport receives information about accidents and incidents. The information will be analysed to identify any necessary corrective actions with an overall objective of improving aviation safety.

The Rule includes:

- Reporting requirements for accidents
- Reporting requirements for incidents including:
 - Aircraft incidents
 - Aerodrome incidents
 - Airspace incidents
 - Bird incidents
 - Dangerous goods incidents
 - Defect incidents
 - Facility malfunction incidents
 - Promulgated information incidents
 - Security incidents
 - Requirements for the preservation of evidence
 - Statistical returns.

Commencement of Rule into Force

This Rule Part, as modified below, comes into force on the 1st July 2018.

Availability of Rules

A copy of Part 12 of the New Zealand Civil Aviation Rules (Consolidated version dated 30 October 2017) will be attached to this document and physically filed at:

The Ministry of Transport
Avatiu Port
Avatiu
Rarotonga
Cook Islands

Copies of the amendments to the New Zealand Civil Aviation Rules are available from:

- CAA web site: <http://www.caa.govt.nz/>
- NZ +64 0800 GET RULES (0800 438 785)

Extent of Consultation

In addition to public notification of proposed Rule-making, targeted notification of the intention to make this Rule was made to:

- All key document holders including holders of Foreign Air Operator Certificates
- Relevant Ministries
- Mayors and executive Officers of the Outer Islands (Pa Eua)

The Ministry of Transport met on request with:

- The Office of the Public Service Commission
- Air Rarotonga
- Infrastructure Cook Islands (including representatives from the Pa Eua)
- Airports Authority Cook Islands
- Cook Islands Police Service
- Ministry of Finance and Economic Management (Customs)
- Pacific Island Energy PTE Ltd
- Cook Island Meteorological Service
- Cook Islands Tourism

The Ministry of Transport received written submissions from:

- Airports Authority Cook Islands
- Air Rarotonga Ltd
- Pacific Islands Energy PTE Ltd.

Copies of the written submissions are available from the Ministry of Transport.

This Civil Aviation Rule is made pursuant to section 29 of the Civil Aviation Act 2002.

Dated at Rarotonga the 28th day of June 2018.



Hon. Henry Puna
Minister of Civil Aviation

Interpretation and Modification Statement for Part 12

(i) Words and numbers to be substituted. Unless otherwise stated, all references to civil aviation legislation are to be read as referring to the Cook Islands Civil Aviation Act 2002.

Throughout

- For "New Zealand" substitute "the Cook Islands" or "Cook islands" as appropriate.
- For "Act" or "Civil Aviation Act" substitute "2002 Act "
- For "Regulations" substitute "Regulations made under the Civil Aviation Act 2002"
- For "the Authority " substitute "the Ministry of Transport"
- For "form CAA" substitute "form MOT". Cook Island Ministry of Transport form numbers are otherwise identical to New Zealand CAA form numbers.
- For "CAA of NZ" substitute "Ministry of Transport – Civil Aviation Division of the Cook Islands"
- For "CAA Consolidation" substitute "Cook Islands Incorporated Consolidation"
- For "section 9 of the Act" or "section 9(1)(a)" or "section 9(1)(b)(iii)" substitute "section 28 of the Civil Aviation Act 2002"

<p>NZCAR 12.3 Definitions NZCAR 12.59 Investigation and Reporting NZCAR 12.101 Access to aircraft involved in an accident</p>	
<p>Delete: 12.3 TAIC 12.59 (1) 12.101 (a) and (b)</p>	<p>Insert: 12.59(1) 12.101(a) and (b)</p>
<p>12.3 "TAIC means the Transport Accident Investigation Commission, which is established by section 3 of the Transport Accident Investigation Commission Act 1990."</p> <p>12.59 (1) "subject to section 14 of the Transport Accident Investigation Commission Act 1990, conduct an investigation to identify the facts relating to its involvement in the incident and establish, so far as those facts allow, the cause or causes of the incident; and"</p> <p>12.101 (a) "Except as provided in the Transport Accident Investigation Commission Act 1990, and paragraphs (b) and (c), no person shall access, interfere with, or remove, an aircraft or its contents that is involved in an accident unless authorised to do so by the Authority."</p>	<p>12.59 (1) "conduct an investigation to identify the facts relating to its involvement in the incident and establish, so far as those facts allow, the cause or causes of the incident; and"</p> <p>12.101 (a) "Except as provided in paragraphs (b) and (c), no person shall access, interfere with, or remove, an aircraft or its</p>

<p>12.101(b) "Subject to the limitations contained in the Transport Accident Investigation Commission Act 1990, "the Authority may, for the purpose of its investigation access, inspect, secure, or remove, an aircraft or its contents that is involved in an accident"</p>	<p>contents that is involved in an accident unless authorised to do so by the Secretary."</p> <p>12.101(b) "The Secretary may, for the purpose of its investigation access, inspect, secure, or remove, an aircraft or its contents that is involved in an accident"</p>
<p>Explanation of Change: Reference to New Zealand legislation. The Transport Accident Investigation Commission in New Zealand may be asked to investigate or accident but they are not mandated to do so by legislation in the Cook Islands.</p>	

NZCAR 12.63 Non-prosecution	
Delete: 12.63	Insert 12.63
<p>12.63 "The Authority shall not use or make available for the purpose of prosecution investigation or for prosecution action any information submitted to it by a person under this Part unless—</p> <p>(1) the information reveals an act or omission that caused unnecessary danger to any other person or to any property; or</p> <p>(2) false information is submitted; or</p> <p>(3) the Authority is obliged to release the information pursuant to a statutory requirement or by order of a Court."</p>	<p>12.63 "The Ministry shall not use or make available for the purpose of prosecution investigation or for prosecution action any information submitted to it by a person under this Part unless—</p> <p>(1) the information reveals an act or omission undertaken with reckless disregard for safety to persons or property; or</p> <p>(2) the Ministry is obliged to release the information pursuant to a statutory requirement or by order of a Court."</p>
<p>Explanation of Change: The threshold for referral for prosecution has been raised in the interests of assuring providers of information that the Ministry will employ principles of "just culture" in the investigation of incidents and accidents. The removal of the clause around false information allows a person who supplies false information to be prosecuted. If the information supplied is found to be false then it is unlikely that a prosecution on false information would be taken.</p>	

(ii) Any subpart, Rule or appendix of the adopted Rule Part which shall not apply in the Cook Islands

Nil

(iii) Any general exemptions which will apply in the Cook Islands

Nil

(iv) Any additional provisions or requirements not found in the New Zealand Rule Part but which will apply in the Cook Islands

Nil

(v) Any direction as to the application or non-application to the Cook Islands of any amendment or repeal of an adopted Rule Part by its country of origin

This Rule Part adopts all New Zealand amendments in force as at 18th April 2018, including:

- Part 12 Original Issue ; 1 April 1997
- Amendment 1; 30 April 1999 I added a semicolon here on all points
- Amendment 2; 22 June 2006
- Amendment 2; (corrected version): 22 June 2006
- Amendment 3; 9 October 2008
- Amendment 4; 23 October 2008
- Amendment 5; 25 March 2010
- Amendment 6; 1 November 2010
- Amendment 7; 10 November 2011
- Amendment 8; 1 August 2015
- Amendment 9; 24 September 2015
- Amendment 10; 30 October 2017

(vi) Any other matter which would assist in the practical, clear and unambiguous interpretation and application of the adopted Rule Part in the Cook Islands.

Unless the Director issues specific acceptable means of compliance for this Cook Island Rule Part, the standards, practices and procedures that the Director has found to be acceptable are those published in the associated Advisory Circulars issued by the Civil Aviation Authority of New